

Public Law 100-448
100th Congress

An Act

Sept. 28, 1988
[H.R. 2342]

To authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Coast Guard
Authorization
Act of 1988.
Maritime
affairs.*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1988".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) **NECESSARY EXPENSES.**—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) **OPERATION AND MAINTENANCE.**—For operation and maintenance of the Coast Guard, \$1,949,813,000 for fiscal year 1988 and \$2,100,506,000 for fiscal year 1989.

(2) **ACQUISITION AND CONSTRUCTION.**—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$277,893,000 for fiscal year 1988 and \$348,000,000 for fiscal year 1989, to remain available until expended.

(3) **RESEARCH AND DEVELOPMENT.**—For research, development, test, and evaluation, \$20,119,000 for fiscal year 1988 and \$19,000,000 for fiscal year 1989, to remain available until expended.

(4) **RETIRED PAY AND MEDICAL CARE.**—For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, \$386,700,000 for fiscal year 1988 and \$410,800,000 for fiscal year 1989, to remain available until expended.

(5) **ALTERATION OR REMOVAL OF BRIDGES.**—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, \$8,500,000 for fiscal year 1989.

(b) **TRANSFER OF FUNDS APPROPRIATED.**—If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) **STRENGTH FOR ACTIVE DUTY PERSONNEL.**—The Coast Guard is authorized a strength for active duty personnel of 39,121 for fiscal year 1988 and 39,121 for fiscal year 1989. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under the authority of section 712 of title 14, United States Code.

(b) **AVERAGE MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads as follows:

(1) **RECRUIT AND SPECIAL TRAINING.**—For recruit and special training, 3,600 student-years for fiscal year 1988 and 3,600 student-years for fiscal year 1989.

(2) **FLIGHT TRAINING.**—For flight training, 132 student-years for fiscal year 1988 and 132 student-years for fiscal year 1989.

(3) **PROFESSIONAL TRAINING.**—For professional training in military and civilian institutions, 430 student-years for fiscal year 1988 and 430 student-years for fiscal year 1989.

(4) **OFFICER ACQUISITION.**—For officer acquisition, 950 student-years for fiscal year 1988 and 950 student-years for fiscal year 1989.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) **IN GENERAL.**—Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal years 1988 and 1989 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) **NOTICE TO CONGRESS.**—A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

10 USC 2304
note.

(a) **MAINTENANCE OF LOGISTICS CAPABILITY.**—

(1) **STATEMENT OF NATIONAL INTEREST.**—It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2) **SUBMISSION OF LIST OF NECESSARY ACTIVITIES; LIMITATION ON CONTRACTING.**—(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and

Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-Government personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by non-Government personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to the date of the enactment of this Act, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b) PROHIBITION ON CONTRACTING FOR PERFORMANCE OF LISTED ACTIVITIES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), performance by non-Government personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) **WAIVER OF PROHIBITION.**—The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) **EFFECTIVE DATE OF WAIVER; SUBMISSION OF STATEMENT.**—A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) **SUBMISSION OF LIST OF ACTIVITIES CONTRACTED FOR PERFORMANCE.**—At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d) EMPLOYMENT OF LOCAL RESIDENTS TO PERFORM CONTRACTS.—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal years 1988 and 1989 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may

State and local governments.

waive this subsection in the interest of national security or economic efficiency.

(2) **LOCAL RESIDENT DEFINED.**—As used in this subsection, the term “local resident” means a resident of a State described in paragraph (1), and any individual who commutes daily to a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) TRANSFERS TO AND EXPENDITURES FROM BOAT SAFETY ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—

(A) **INCREASE IN MAXIMUM TRANSFER AND MAXIMUM AMOUNT IN ACCOUNT.**—Subclauses (I) and (II) of subsection 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitations on transfers to and amounts in the Boat Safety Account) are each amended by striking “for Fiscal Year 1987 only and \$45,000,000 for each Fiscal Year thereafter” and inserting in lieu thereof “for each of fiscal years 1989 and 1990 and \$70,000,000 for each fiscal year thereafter”.

26 USC 9503.

(B) **TECHNICAL AMENDMENT.**—Subparagraph (E) of section 9503(c)(4) of the Internal Revenue Code of 1986 (relating to the amount of payments to the Aquatic Resources Trust Fund) is amended by striking the second sentence.

(2) **EXTENSION OF EXPENDITURE AUTHORITY.**—Subsection (c) of section 9504 of the Internal Revenue Code of 1986 (relating to expenditures from the Boat Safety Account) is amended—

(A) by striking “before April 1, 1989,” and inserting “before April 1, 1994,”; and

(B) by striking “(as in effect on June 1, 1984)” and inserting “(as in effect on October 1, 1988)”.

(3) **CORRECTION OF CLERICAL ERRORS.**—Subclauses (I) and (II) of section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 are each amended—

(A) by striking the quotation marks following “\$60,000,000”; and

(B) by striking the semicolon before the period.

(b) BOATING SAFETY PROGRAMS.—

(1) AUTHORIZATION OF CONTRACT SPENDING.—

(A) **STATE RECREATIONAL BOATING SAFETY PROGRAM ASSISTANCE.**—Subsection (a) of section 13106 of title 46, United States Code (relating to authorization of contract spending for recreational boating safety programs), is amended as follows:

(i) The first sentence of subsection (a) is amended to read as follows: “(1) Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to ½ of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).”.

(ii) The following is added at the end of subsection (a):
“(2) The Secretary shall use not less than one percent and not more than two percent of the amount appropriated each fiscal year for State recreational boating safety programs under this chapter to

pay the costs of investigations, personnel, and activities related to administering those programs.”.

46 USC 13103
note.

(B) CONFORMING AMENDMENT.—Subsection (d) of section 7 of the Coast Guard Authorization Act of 1986 (Public Law 99-640) is repealed.

(2) EXPENDITURES FOR COAST GUARD SERVICES.—Subsection (c) of section 13106 of title 46, United States Code, is amended—

(A) in the first sentence by striking “for Fiscal Year 1987 and one-third for each Fiscal Year thereafter.”; and

(B) by inserting after the first sentence the following: “Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a).”.

(3) CLARIFICATION OF MATCHING RESTRICTIONS.—Section 13102(b) is amended in the first sentence by striking “from sources (except” and inserting in lieu thereof “(except amounts from”.

(4) TECHNICAL AMENDMENT.—Section 13102(a) of title 46, United States Code, is amended in the first sentence by striking “1954.” and inserting in lieu thereof “1986”.

(5) TECHNICAL AMENDMENT.—Paragraph (4) of section 13102(a) of title 46, United States Code, is amended to read as follows:

State and local
governments.
Reports.

“(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying out the State recreational boating safety program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.”.

(6) TECHNICAL AMENDMENT.—Subsection (c) of section 13106 of title 46, United States Code, is amended in the first sentence by striking “1954” and inserting “1986”.

16 USC 777.

(c) SPORT FISH RESTORATION PROGRAMS.—

(1) STATE ALLOCATION OF ASSISTANCE BETWEEN MARINE AND FRESHWATER FISH PROJECTS.—Subsection (b) of the first section of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes” (64 Stat. 430; 16 U.S.C. 777 et seq.) is amended to read as follows:

“(b) ALLOCATION OF AMOUNTS BY COASTAL STATES BETWEEN MARINE FISH PROJECTS AND FRESHWATER FISH PROJECTS.—

“(1) IN GENERAL.—Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this Act between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

“(2) PRESERVATION OF FRESHWATER PROJECT ALLOCATION AT 1988 LEVEL.—(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

“(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State

under this Act is less than the amount apportioned to the State under this Act for fiscal year 1988.

“(3) **COASTAL STATE DEFINED.**—As used in this subsection, the term ‘coastal State’ means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”

(2) **STATE USE OF CONTRIBUTIONS.**—Such Act is further amended by adding at the end the following:

“SEC. 13. STATE USE OF CONTRIBUTIONS.

16 USC 777L

“A State may use contributions of funds, real property, materials, and services to carry out an activity under this Act in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.”

Real property.

(3) **EXPENDITURES FROM TRUST FUND.**—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “(as in effect on June 1, 1984)” and inserting “(as in effect on October 1, 1988)”.

26 USC 9504.

(d) **SURVEY OF FUEL USE BY RECREATIONAL VESSELS.**—

46 USC 13101
note.

(1) **IN GENERAL.**—The Secretary of Transportation and the Secretary of the Interior shall jointly conduct a survey of—

(A) the number, size, and primary uses of recreational vessels operating on the waters of the United States; and
(B) the amount and types of fuel used by those vessels.

(2) **AUTHORIZATION OF CONTRACTS.**—The Secretary of Transportation and the Secretary of the Interior may enter into contracts for the performance of a survey pursuant to this subsection.

(3) **REPORT.**—The Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate which describes the results of the survey conducted pursuant to this section not later than November 15, 1992.

(4) **FUNDING.**—Activities under this subsection may be carried out—

(A) using amounts available to the Secretary of the Interior for administrative expenses under the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes” (64 Stat. 430; 16 U.S.C. 777 et seq.); and

(B) subject to appropriations, using amounts available to the Secretary of Transportation under section 13106(a)(1) of title 46, United States Code (as amended by this Act).

(e) **EFFECTIVE DATE.**—This section shall take effect October 1, 1988.

16 USC 777 note.

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title."

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) **IN GENERAL.**—In exchange for parcels of land, or any buildings or improvements located in and about Lake Worth Inlet in Palm Beach County, Florida, or in exchange for construction, improvements, or services to land or buildings in such area, the Secretary of the department in which the Coast Guard is operating may offer for consideration, and transfer, in whole or in part, any other parcels of land, and any buildings and improvements, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be transferred shall be as described in such surveys as may be satisfactory to the Secretary.

Contracts.

(b) **PROCEDURE.**—Each contracting action under this section shall be conducted in accordance with competitive bidding procedures prescribed by section 2304 of title 10, United States Code. Property may not be exchanged under this section for less than its fair market value or reasonably comparable value in property, construction, improvements, or services.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The Committee terminates on September 30, 1992."

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) **IN GENERAL.**—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms

Regulations.

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties."

(b) **CONFORMING AMENDMENT.**—The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms."

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (k) by striking "and (c)" and inserting "(c), and (n)"; and

(2) by adding at the end the following new subsection:

"(n)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement."

Contracts.

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is

separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

Regulations.

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

Children and youth.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian."

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

Regulations.

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight."

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight."

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v)) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

Safety.

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head

and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.”

SEC. 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) **IN GENERAL.**—Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting “or within the Coast Guard” after “title 32”; and

(2) in subsection (g), by striking “or the Secretary of a military department” and inserting in lieu thereof “, the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate”.

(b) **AFFECTED CLAIMS.**—The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred.

10 USC 1054
note.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

33 USC 59x.

(a) **WATERS DECLARED NONNAVIGABLE.**—The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) **WATERS DESCRIBED.**—The waters referred to in subsection (a) are a drainage canal which—

New Jersey.

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking “on and under” the first place it appears and inserting in lieu thereof “on, under, and over”.

SEC. 18. BRIDGES DEEMED UNREASONABLE OBSTRUCTIONS TO NAVIGATION.

Notwithstanding any other provision of law, each of the following bridges is deemed to be an unreasonable obstruction to navigation:

(1) **EAST HANNIBAL, ILLINOIS.**—The Mississippi River Railroad Bridge between East Hannibal, Illinois, and Hannibal, Missouri, mile 309.9, Upper Mississippi River.

Missouri.

(2) **PASCAGOULA, MISSISSIPPI.**—The CSX (L&N) Railroad Bridge in Pascagoula, Mississippi.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to accomplish the Coast Guard's antisubmarine warfare (ASW) mission responsibilities in the Maritime Defense Zone after considering all available options, including those fully

developed by the Navy, on how ASW equipment will be installed and used on Coast Guard cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) **IN GENERAL.**—Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking “members from” each place it appears and inserting in lieu thereof “representatives of”.

46 USC 13110
note.

(b) **IMPLEMENTATION.**—The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following: “Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.”

Highways.

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

Reports.

SEC. 23. ICEBREAKER STUDY.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than October 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

President of U.S.
Defense and
national
security.
Reports.

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking

vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

31 USC 1105
note.

(a) **OPINION OF CONGRESS.**—It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) **SUBMISSION OF 2-YEAR BUDGET BY PRESIDENT.**—The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) **REPORT.**—Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing—

(1) the Secretary's views on the advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle;

(2) the Secretary's plans for converting to a 2-year budget cycle; and

(3) a description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget."

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) **IN GENERAL.**—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized

President of U.S.
Contracts.

until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.”.

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

“665. Restriction on construction of vessels in foreign shipyards.”.

SEC. 27. HELICOPTER PRESENCE IN CHARLESTON, SOUTH CAROLINA.

(a) **ESTABLISHMENT OF HELICOPTER PRESENCE.**—Not later than three months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall have initiated action to establish a full-time permanent base at Charleston, South Carolina, for the operation of at least one HH-65 short-range recovery helicopter, together with necessary support and operational personnel. The establishment of this base shall be completed in 24 months. The Secretary shall ensure that establishing and maintaining this base shall not result in a relocation of helicopters assigned to a Coast Guard air station as of July 13, 1988.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to the funds authorized to be appropriated under section 2 of this Act, \$10,000,000 is authorized to be appropriated for fiscal year 1989 to establish and operate the Charleston, South Carolina, helicopter presence.

SEC. 28. GRANT OF RIGHT OF FIRST REFUSAL TO GRAND HAVEN, MICHIGAN, TO CERTAIN PROPERTY USED BY THE COAST GUARD.

(a) **RIGHT OF FIRST REFUSAL.**—The Secretary of the department in which the Coast Guard is operating shall transfer without consideration to the city of Grand Haven, Michigan, the right that, if the Coast Guard ceases to use the property described in subsection (c)(1) as a Coast Guard facility or such property is determined to be excess, the city of Grand Haven shall have the first opportunity to purchase the property described in subsection (c)(1).

(b) **PURCHASE PRICE OF PROPERTY.**—The right referred to in subsection (a) shall provide that the property may be purchased by the city of Grand Haven, Michigan, for fair market value less—

(1) $\frac{2}{3}$ of the difference between—

(A) the appraised value of the property described in subsection (c)(1) after improvements are made but before occupancy by the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(1), determined as of the date such property was first acquired by the United States for use by the Coast Guard but before the Coast Guard takes occupancy; less

(2) the difference between—

(A) the appraised value of the property described in subsection (c)(1), determined as of the date the property was first acquired for the use of the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(2), determined as of the date the property was transferred by the United States to the city of Grand Haven, Michigan.

(c) **DESCRIPTION OF PROPERTY.**—

(1) **PROPERTY USED AS COAST GUARD FACILITY.**—The property referred to in subsections (a), (b)(1) (A) and (B), and (b)(2)(A) is that property known as the old Board of Light and Power office

and service operations facility, located at 650 Harbor Avenue, Grand Haven, Michigan.

(2) **OTHER PROPERTY.**—The property referred to in subsection (b)(2)(B) is that property in the city of Grand Haven, Michigan, more particularly described as: That part of Government Lot 3 in section 19, town 8 north, range 16 West, described as beginning at a point called "A" located as follows: Commence on the east line of said section 19, 2,290.35 feet south of the east quarter corner of said section, thence west 663.04 feet, thence south 2 degrees west 197.00 feet to a point of beginning "A", thence south 63 degrees 45 minutes west 200.00 feet, thence south 26 degrees 15 minutes east 200.00 feet to the north pier on the Grand River, thence north 63 degrees 45 minutes east 250.00 feet along such pier line, thence north 23 degrees 20 minutes west to a point 61.05 feet north 63 degrees 45 minutes east of point "A", thence south 63 degrees 45 minutes west to the point of beginning, called "A", also known and sometimes described as Tax Parcel No. 70-03-19-42-015, being located in the southeast quarter of said section 19, town 8 north, range 16 west, bounded on the southerly boundary thereof by the waters of the Grand River, and bounded on the northerly edge thereof by "Main Street" in the city of Grand Haven.

SEC. 29. ASSISTANCE TO FILM PRODUCERS.

(a) **IN GENERAL.**—Title 14, United States Code, is amended by inserting after section 658 the following:

"§ 659. Assistance to film producers

"(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, 'film producers' includes commercial or noncommercial producers of material for cinema, television, or videotape.

"(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding \$200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred."

(b) **CONFORMING AMENDMENT.**—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 658 the following:

"659. Assistance to film producers."

SEC. 30. USE OF COAST GUARD AUXILIARY FOR NONEMERGENCY ASSISTANCE.

(a) **IN GENERAL.**—Section 88(b) of title 14, United States Code, is amended—

(1) by striking "The Coast Guard" and inserting in lieu thereof "(1) Subject to paragraph (2), the Coast Guard"; and

(2) by adding at the end the following:

“(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, is rendering aid under this subsection in nonemergency cases.”.

(b) CONFORMING AMENDMENT.—Section 113 of the Coast Guard Authorization Act of 1982 (14 U.S.C. 88 note) is amended by inserting “(other than by the Coast Guard Auxiliary)” after “interference”.

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 2342 (S. 1459):

HOUSE REPORTS: No. 100-154 (Comm. on Merchant Marine and Fisheries) and No. 100-855 (Comm. of Conference).

SENATE REPORTS: No. 100-98 accompanying S. 1459 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 8, considered and passed House.

Oct. 13, considered and passed Senate, amended, in lieu of S. 1459.

Dec. 18, House concurred in Senate amendment with an amendment.

Vol. 134 (1988): Sept. 14, House agreed to conference report.

Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 28, Presidential statement.